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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,711	03/13/2001	Robert H. Sleamaker		4947

7590 01/07/2005

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EXAMINER

CROW, STEPHEN R

ART UNIT PAPER NUMBER

3764

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/805,711	SLEAMAKER, ROBERT H.	
	Examiner	Art Unit	
	Steve R. Crow	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-7, 12, 13, 15-17, 20, 22, 23, 25-26 is/are rejected.
- 7) ☒ Claim(s) 8-11, 14, 19, 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Numerous calls were made by the examiner to Mr. Meeker in December, 2004 and January, 2005 to try to expedite this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-7, 13, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sleamaker in view of Pepin or Hsu.

3. Sleamaker discloses all of applicant's claimed invention except for a body support means comprising an elongated padded bench which tapers in the front for providing greater freedom of movement of the arms. Pepin discloses a body board having a tapered padded bench 5. Hsu shows a tapered body support 31. In view of these teachings, it would have been obvious to one skilled in the art to modify the Sleamaker body support means by tapering it so that the user has greater range of arm motion for simulating swimming type exercise.

As to claim 3, Sleamaker's rear support stanchion appears to be about fourteen inches tall. The examiner contends that, if not inherent, it would have been obvious to one skilled in the art to provide such a height for providing an inclination while preventing user's feet to contact the floor during exercise.

Art Unit: 3764

As to claim 6, , the examiner contends that it would have been obvious to one skilled in the art to place the tension means on the forward upright and connected to the user support for assisting user's movements.

As to claim 26, rust proofing surfaces in the exercise equipment field is generally well recognized, and would have been obvious due to the corrosive nature of sweat.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sleamaker in view of Hsu or Pepin, and further in view of Brister .

Brister teaches the use of plural cords for providing resistance to a user support platform. The examiner contends that it would have been obvious to one skilled in the art to provide plural cords for providing different resistances.

5. Claims 12,15-16,20,22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sleamaker in view of Pepin or Hsu, and further in view of Lundin.

As to claim 12, the examiner contends that it would have been obvious to one skilled in the art to provide a bar grip on the front bar 56 of Sleamaker, in view of Lundin , for providing a grip for pull up purposes.

As to claims 15-16, the examiner contends that it would have been obvious to one skilled in the art to provide collapsibility and transportation wheels, in view of Lundin , for collapsing and transporting the Sleamaker device.

Art Unit: 3764

As to claim 20, the examiner contends that it would have been obvious to one skilled in the art to provide a rear push off bar in Sleamaker in view of the Lundin push off bar (see figure 4) , for squat type exercises.

As to claims 22-23, the examiner contends that it would have been obvious to one skilled in the art to provide indicia in the Sleamaker upright in view of the Lundin indicia shown in figure 11 , for height adjustment purposes; and the examiner takes Judicial Notice that the use of quick release mechanisms is well recognized in the exercise art and therefore, it would have been obvious to one skilled in the art to provide conventional quick release mechanism for rapid height adjustment in the Sleamaker device .

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sleamaker in view of Pepin or Hsu, and further in view of Westfall et al.

The examiner contends that it would have been obvious to one skilled in the art to provide Sleamaker's carriage with weight means in view of Westfall et al weight bar and weights suggestion , for exercise resistance purposes.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sleamaker in view of Pepin or Hsu, and further in view of Watterson et al.

The examiner contends that it would have been obvious to one skilled in the art to provide recessed channels in the Sleamaker monorail in view Watterson wheel channel teaching.

Allowable Subject Matter


1. Claims 21,27-29 are allowed.

8. Claims 8-11,14,19,24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve R. Crow whose telephone number is 703-308-3398. The examiner can normally be reached on Reg:8:30-6;Off First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 703-308-2675. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332
